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| 10/797,501 | 03/10/2004 | Jeffrey Dunaway | LA144/000LA-U | 3978 |
| 24350 | 7590 | 06/22/2007 | EXAMINER | |
| STITES & HARBISON, PLLC | | | LUONG, VINH | |
| 400 W MARKET ST | | | | |
| SUITE 1800 | | | ART UNIT | PAPER NUMBER |
| LOUISVILLE, KY 40202-3352 | | | 3682 | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/797,501 | DUNAWAY ET AL. |
| | Examiner | Art Unit |
| | Vinh T. Luong | 3682 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 April 2007 and 10 May 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,4,5,8-13 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1, 4, 5, 8-13, 16-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 5/10/07, 4/12/07, 3/10/04 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.



Vinh T. Luong
Primary Examiner

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Attachment</u> . |

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1. The amendments filed on April 12, 2007 and May 10, 2007 have been entered.
2. The drawings were received on May 10, 2007. These drawings are not accepted by the Examiner due to the objection below.
3. The drawings are objected to because, e.g., each part of the invention, such as, the front portion receiving aperture in Claims 1, 5, and 13, and the projection receiving aperture in Claims 4, 9, and 16 should be designated by a reference character.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. *The objection to the drawings will not be held in abeyance.*

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed features, such as, the front portion receiving aperture and the disengaged position of the plunger lower end 36 from the

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track 30 in Claims 1, 5, and 13 must be shown or the features canceled from the claims. No new matter should be entered.

FIGS. 3-6 show only the engaged position of the plunger lower end 36 with the track 30. The alternate position, such as, the disengaged position of the plunger lower end 36 is required to be shown in accordance with 37 CFR 1.84(h)(4).

5. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because of the objections above. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. *The requirement for corrected drawings will not be held in abeyance.*

6. The disclosure is objected to because of the following informalities: each part of the invention, such as, the front portion receiving aperture in Claims 1, 5, and 13, and the projection receiving aperture in Claims 4, 9, and 16 should be designated by a reference character. Appropriate correction is required.

7. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter, such as, "a front portion receiving aperture" in Claims 1, 5, and 13, and "a projection receiving aperture" in Claims 4, 9, and 16. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction is required.

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claims 1, 4, 5, 8-13, and 16-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation “said opening (24) for receiving and securing *the covering* (11)” (reference character and emphasis added) in Claims 1, 5, and 13 is indefinite since it is inconsistent with the specification disclosure. See MPEP 2173.03. The specification describes and FIGS. 4-6 show that the opening 24 is for receiving and securing the catch 48, not the covering 11 as claimed.

The term "contrasting" in Claims 12 and 20 is a relative term, which renders the claims indefinite. The term "contrasting" is not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is unclear, e.g., what objective standardized test(s) is(are) required in order to determine whether the color of the inner surface is contrasting with the color of the outer surface. See the term “aesthetically pleasing” in *Datamize LLC v. Plumtree Software Inc.*, 75 USPQ2d 1801 (Fed. Cir. 2005).

It is unclear whether the term that appears at least twice, such as, “a pallet” in lines 1 and 3 of Claim 5 refers to the same or different things. See double inclusion in MPEP 2173.05(o). Applicant is respectfully urged to identify each claimed element with reference to the drawings.

10. Claims 1, 5, 8, and 13, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by McLennan et al. (US Patent No. 4,085,684).

Regarding claim 1, McLennan teaches a track fitting 15 used in connection with a track 10 extending along an item for securing a covering (a cargo net) to said item, the track fitting comprising:

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a body 40, 80 having a front portion 43 and a rear portion 42, said rear portion 42 being substantially C-shaped and having a first integral foot 47/75 (see Attachment hereinafter "Att.") and a second integral foot 46/75, said first and second feet 47/75 and 46/75 defining an opening therebetween (Att.), said opening being capable of receiving and securing the covering, at least one of the feet 46/75 and 47/75 for being received in one of a series of openings 20 defined by the track 10, and

a plunger 25 having a lower end 35 and defining a front portion receiving aperture 32, 98, said plunger 25 cooperating with said front portion 43 between a first position (shown in phantom or dashed line in FIG. 2) and a second position (shown by solid line in FIG. 2), said front portion receiving aperture 32, 98 receiving said front portion 43, said plunger lower end 35 being disengaged from the track 10 when said lower end 35 is pulled upwards to the first position (FIG. 2)" allowing movement of the track fitting 15 along the track 10 (FIG. 3), and said lower end 35 engages the track 10 at one of the openings 20 defined by the track 10 when said lower end 35 is placed in the second position (FIG. 4) preventing further movement of the track fitting 15 along the track 10. *Ibid.* col. 4, line 13+ and Claims 1-5.

Claim 1 and other claims below are anticipated by McLennan because McLennan teaches each positively claimed element in the claim. Note that McLennan's front and rear portions of the body 40, 80 are formed as one-piece, therefore, McLennan's rear portion/front portion has first and second feet or *vice versa*. On the other hand, referring the track fitting to the intended use elements, such as, the track, the item, and the covering is not accorded patentable weight. It is well settled that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably

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distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then, it meets the claim. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Regarding claim 5, McLennan teaches a system for securing a pallet of cargo (id. col. 4, line 15+) comprising:

a track 10 extending around the perimeter of the pallet (see ;

a covering (i.e., a net. Ibid. col. 4, line 21+) for enclosing the pallet;

a plurality of fittings (anchors, id. col. 1, line 26+) 15 for securing the covering to the track 10, each fitting comprising:

a body 40, 80 having a front portion 43 and a rear portion 42, said rear portion 42 being substantially C-shaped and having a first integral foot 47/75 (see Attachment hereinafter "Att.") and a second integral foot 46/75, said first and second feet 47/75 and 46/75 defining an opening therebetween (Att.), said opening being capable of receiving and securing the covering, at least one of the feet 46/75 and 47/75 for being received in one of a series of openings 20 defined by the track 10, and

a plunger 25 having a lower end 35 and defining a front portion receiving aperture 32, 98, said plunger 25 cooperating with said front portion 43 between a first position (shown in phantom or dashed line in FIG. 2) and a second position (shown by solid line in FIG. 2), said front portion receiving aperture 32, 98 receiving said front portion 43, said plunger lower end 35 being disengaged from the track 10 when said lower end 35 is pulled upwards to the first position (FIG. 2)" allowing movement of the track fitting 15 along the track 10 (FIG. 3), and said lower end 35 engages the track 10 at one of the openings 20 defined by the track 10 when said

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lower end 35 is placed in the second position (FIG. 4) preventing further movement of the track fitting 15 along the track 10. *Ibid.* col. 4, line 13+ and Claims 1-5.

Regarding claim 8, see a locking mechanism 56, 58 for temporarily disabling the movement of said plunger 25.

Regarding claim 13, McLennan teaches a system for securing cargo that includes a track 10 extending substantially about the periphery of the cargo and a covering (a cargo net) that is positioned over and substantially encloses said cargo, the improvement comprising:

a track fitting 15 having

a body 40, 80 having a front portion 43 and a rear portion 42, said rear portion 42 being substantially C-shaped and having a first integral foot 47/75 (see Attachment hereinafter "Att.") and a second integral foot 46/75, said first and second feet 47/75 and 46/75 defining an opening therebetween (Att.), said opening being capable of receiving and securing the covering, at least one of the feet 46/75 and 47/75 for being received in one of a series of openings 20 defined by the track 10, and

a plunger 25 having a lower end 35 and defining a front portion receiving aperture 32, 98, said plunger 25 cooperating with said front portion 43 between a first position (shown in phantom or dashed line in FIG. 2) and a second position (shown by solid line in FIG. 2), said front portion receiving aperture 32, 98 receiving said front portion 43, said plunger lower end 35 being disengaged from the track 10 when said lower end 35 is pulled upwards to the first position (FIG. 2) allowing movement of the track fitting 15 along the track 10 (FIG. 3), and said lower end 35 engages the track 10 at one of the openings 20 defined by the track 10 when said

lower end 35 is placed in the second position (FIG. 4) preventing further movement of the track fitting 15 along the track 10. *Ibid.* col. 4, line 13+ and Claims 1-5.

11. Claims 12, 19, and 20, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over McLennan et al. in view of Haas (US Patent No. 6,715,820 filed on September 23, 2002).

Regarding claims 12 and 20, McLennan teaches the invention substantially as claimed. However, McLennan does not teach the covering (cargo net) having inner and outer surfaces with contrasting colors.

Haas teaches the covering 56, 120 having inner and outer surfaces with contrasting colors (e.g., different woven and nonwoven materials) in order to detect tampering or damage to the covering. *Ibid.* column 3, lines 36+.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the covering having inner and outer surfaces with contrasting colors (e.g., different woven and nonwoven materials) in order to detect tampering or damage to McLennan's covering as taught or suggested by Haas.

Regarding claim 19, McLennan teaches the invention substantially as claimed. However, McLennan does not teach the covering constructed from a material when cut, signals that the cargo has been tampered with.

Haas teaches the covering 56, 120 constructed from a material when cut, signals that the cargo has been tampered with. *Ibid.* column 3, lines 36-64 and claims 1-23.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct McLennan's covering from a material when cut, signals that the cargo has been tampered with as taught or suggested by Haas.

12. Claims 4, 9-11, and 16-18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

13. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Julian et al. (hole 114 for locking member. Ibid. page 7, lines 6-11) and Dixon (feet 22-24).

15. Applicant's arguments filed April 12, 2007 have been fully considered but they are not persuasive.

DRAWINGS

The replacement drawings have been disapproved due to the objection to the drawings above.

35 USC 112

Applicant contended that the claims have been amended to address the indefiniteness. The Examiner respectfully submits that the claims are still indefinite for the reasons set forth in the rejection under 35 USC 112, second paragraph, above.

35 USC 102

The previous rejections based on Looker, Ruff, and Matthews have been withdrawn in view of Applicant's amended claims. Applicant's arguments with respect to Claims 1, 5, 8, and 13 have been considered but are moot in view of the new ground(s) of rejection.

35 USC 103

The previous rejections based on admitted prior art in view of Matthews, and Matthews in view of Haas have been withdrawn in view of Applicant's amended claims. Applicant's arguments with respect to Claims 12, 19, and 20 have been considered but are moot in view of the new ground(s) of rejection.

CONCLUSION

For the foregoing, Applicant's request allowance of all pending claims is respectfully denied.

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinh T. Luong whose telephone number is 571-272-7109. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Luong

June 18, 2007



Vinh T. Luong
Primary Examiner

ATTACHMENT

United States Patent [19]

McLennan et al.

[11]

4,085,684

[45]

Apr. 25, 1978

[54] QUICK DISCONNECT TIE-DOWN ANCHOR

[75] Inventors: Richard Earl McLennan, Rancho Palos Verdes; Robert Looker, Carpenteria, both of Calif.

[73] Assignee: Satron, Inc., El Segundo, Calif.

[21] Appl. No.: 762,384

[22] Filed: Jan. 26, 1977

4,020,770 5/1977 McLennan et al. 105/482

Primary Examiner—Drayton E. Hoffman

Assistant Examiner—Howard Beltran

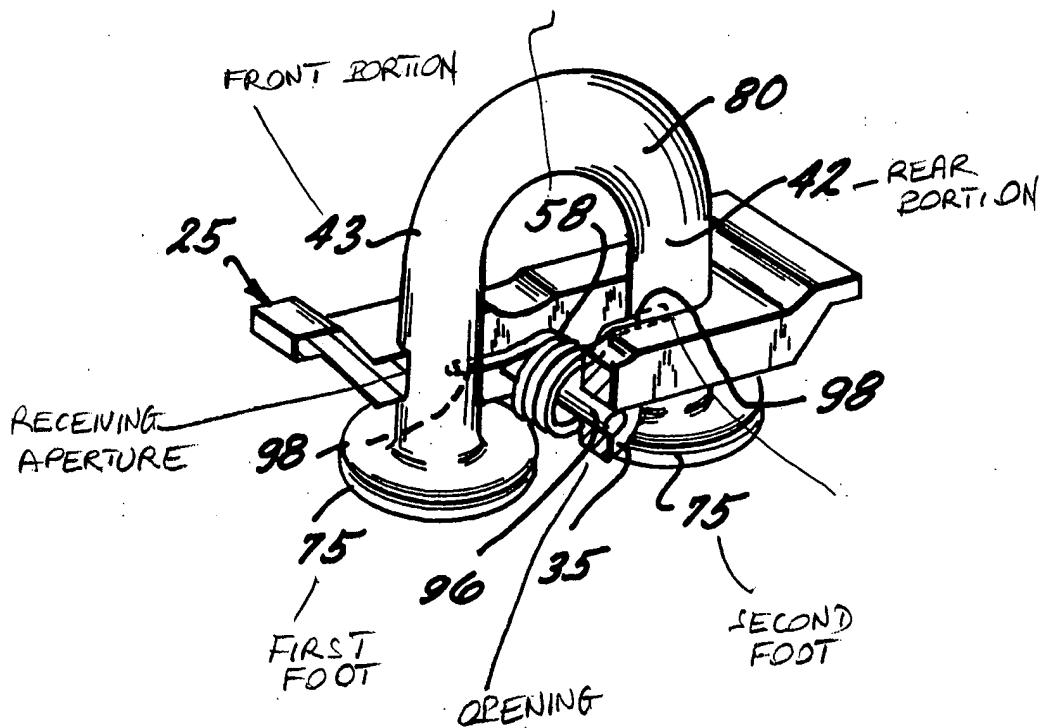
Attorney, Agent, or Firm—George F. Smyth

[57] ABSTRACT

A quick disconnect dual stud type of track tie-down fitting for use with a track having slots and lips includes an insert having a generally U-shaped body and including spaced integral legs arranged in parallel alignment. Cooperating with the insert is a retainer having apertures therein which receive the legs of the insert, the ends of the legs carrying studs which pass through the slots of the track and which can engage the lips of the track. Carried by the retainer and located between the studs is a locking nub which secures the tie-down fitting in the track by being received within a slot thereof while the studs are engaged with lips of the track adjacent to the slot. The retainer is biased into the locking position by springs cooperating with the legs of the insert to urge the retainer into the locking position. By forming the insert as an integral U-shaped member, the cost of the unit is substantially reduced while the overall-structure is vastly simplified.

5 Claims, 7 Drawing Figures

LOCKING MECHANISM



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